

Part-9-One Pager Snapshot to the Latest Cases

CA Arpit Haldia

S. N.	Section	Case Subject	Case	Held	Cases Referred
1.	Section 7 and Section 70	Taxability of club with the insertion of Section 7(1)(aa) and question of interference by High Court at the stage of Summon	Bankipore Club Ltd. v. Union of India [2023] 150 taxmann.com 76 (Patna)	<p>It was contended by the petitioner that club operates on the principles of agency and having its relationship with the individual members based on the principle of mutuality, the CGST Act was not applicable to it till the CGST Act was amended with the insertion of Clause (aa) to Section 7 of the CGST Act by Finance Act, 2021 with effect from 01.01.2022. Therefore, petitioner ought not to have been directed to produce any document for the transactions prior to 01.01.2022.</p> <p>In view of the wide scope of Section 70 of the CGST Act regarding power to summon persons to give evidence and produce documents, the High Court was not inclined to interfere with the impugned summons.</p>	-
2.	Section 17(5)(c) and (d)	Eligibility of Main contractor to claim Input Tax credit of the Tax charged by Sub-contractor	SR Constructions v. Union of India [2023] 150 taxmann.com 75 (TRIPURA)	<p>The petitioner is a construction company. They had a works contract agreement with the M/s Hotel Polo Pvt. Ltd. and to construct a hotel. In the process of construction they procured materials and also took the services of Sub-contractors. However, demand on the ground that such ITC availed on works contract service for supply of construction of an immoveable property was in violation of Section 17(5) of CGST Act was created against the petitioners under Section 74.</p> <p>It was held by the High Court that the petitioner has been providing work contract services to the owner of the hotel and not for it's own and thus they are entitled to take Input Tax Credit on the Goods and Services being utilized for providing the taxable work contract services. The demand raised and penalty imposed under Section 74(1) of the CGST Act,2017 was held to be ultra vires.</p>	-
3.	HSN 9404	Classification of Tax Rate on Mattresses	Hosur Coir Foams (P.) Ltd [2023] 150 taxmann.com 74 (AAR - TAMILNADU)	Mattresses classifiable under HSN 940429 are liable to Tax @ 18% vide serial number 438 under Schedule III of Notification No.01/2017 I.T (Rate) dated 28.06.2017, as amended.	-
4.	Section 7 and Section 16	Treatment of subsidized food provided by the Taxpayer to its Employees and availability of ITC	AIA Engineering Ltd. [2023] 150 taxmann.com 73 (AAR - GUJARAT)	<p>GST is not leviable on the amount representing the employee's portion of canteen charges recovered/collected by the applicant from its employees and paid to the canteen service provider on behalf of the employee since it would not be considered as a supply under the provisions of Section 7 of the CGST Act,2017 and the GGST Act,2017.</p> <p>Input Tax Credit (ITC) will be available to the applicant on GST charged by the service provider in respect of canteen facility provided to its direct employees working in their factory to the extent of the cost borne by the applicant for providing canteen services to its direct employees, but disallowing proportionate credit to the extent embedded in the cost of goods recovered from such employees.</p>	M/s Tata Motors Ltd, Ahmedabad- GUJ/GAAAR/Appeal/2022/23 dated 22.12.2022

